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9 Attorneys for Plaintiffs

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

12 DYANNE C. DEUEL, an individual; KARLA

13 L. OSORIO, an individual; KIM TIRRE, an

individual; SAMANTHA FINKS, an

14 individual; ELISABETH JOHNSON, an

individual; JAMES THACKER, an individual;

NANCY L. MUNOZ, an individual;

15 TUQUISHA WILLIAMS, an individual;

DARLENE FLORIANO, an individual;

16 JACQUELYNN BECERRA, an individual;

DAVID STADE, an individual;

17 GEORGIANA PACHECO, an individual;

CASSIE GIBBONS, an individual;

18 Plaintiffs,

19 vs.

20 1 800 GET THIN, LLC; KAMBIZ

21 BENIAMIA OMIDI, aka JULIAN OMIDI, an

individual; MICHAEL OMIDI, M.D., an

22 individual; CINDY OMIDI, an individual;

TOP SURGEONS, LLC; NEW LIFE

23 SURGERY CENTER, LLC; DE VIDA USA,

LLC; BEVERLY HILLS SURGERY

24 CENTER, LLC; VALLEY SURGICAL

CENTER, LLC.; ALMONT AMBULATORY

25 SURGERY CENTER, INC.; ANTELOPE

VALLEY SURGICAL CENTER, LLC;

26 CALIFORNIA HOSPITAL MANAGEMENT

& COLLECTIONS, INC.; LAP BAND

27 SPECIALISTS, LLC; SKIN CANCER AND

RECONSTRUCTIVE SURGERY

28 SPECIALISTS OF BEVERLY HILLS: SKIN

Case No.

BC477064

WHISTLEBLOWER COMPLAINT FOR:

**1. VIOLATIONS OF HEALTH &
SAFETY CODE §1278.5;**

**2. VIOLATIONS OF LABOR CODE
§1102.5**

**3. VIOLATIONS OF RACKETEERING
INFLUENCED AND CORRUPT
ORGANIZATIONS ACT [18 U.S.C.A.
§1964(c)]**

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ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JAN 17 2012

John A. Clarke, Executive Officer/Clerk
BY *[Signature]* Deputy
Regina Juliano

1 CANCER AND RECONSTRUCTIVE
2 SURGERY SPECIALISTS OF VALENCIA;
3 SURGERY CENTER MANAGEMENT,
4 LLC; ROBERT SILVERMAN, ESQ.;
5 PATIENT ADVOCACY LAW GROUP
(PALG); ROBERTO MACATANGAY, an
6 individual; MARIA ABACA, an individual;
7 THOMAS CLOUD, an individual; BRIAN
8 OXMAN, ESQ., an individual; and DOES 1
9 through 200, inclusive,

Defendants.

Plaintiffs, by and through their counsel, allege against the Defendants, and each of them, as follows:

NATURE OF THE ACTION

1. Plaintiffs are informed and believe, and thereon allege that Defendants, KAMBIZ BENIAMIA OMIDI, aka JULIAN OMIDI, his younger brother, MICHAEL OMIDI, M.D., and CINDY OMIDI, their mother (hereinafter referred to as the "OMIDIS") have created a huge, lucrative and criminal enterprise to solicit patients for Lap Band surgeries through their 1 800 GET THIN billboards, TV, radio and print ads using commission-based illegal aliens to staff their call center, who refer patients to one of the OMIDIS' outpatient surgery centers. Plaintiffs are further informed and believe that the OMIDIS, through their various shell corporations, then submit fraudulent billings to the patients' insurance companies for surgical procedures performed in the OMIDIS' unsanitary and substandard facilities. Plaintiffs are further informed that the OMIDIS instruct their surgeons and doctors to perform medically-unnecessary surgical procedures such as liver biopsies, hiatal hernia repairs, hysterectomies, gall bladder removal, and bladder slings in order to increase the Defendants' billings to the patients' insurance companies. In order to save costs and further increase their profit margin, the OMIDIS do not stock their surgery centers with the necessary medical equipment to properly sterilize surgical instruments, require the staff to "recycle" surgical instruments which fall apart, and do not stock medications or equipment to deal with life-threatening medical emergencies should the surgical patient "crash" during surgery. Further, the medical equipment and monitors at their surgical facilities are outdated, broken and frequently malfunction. The OMIDIS require their staff to perform medical procedures which

1 they are not licensed or qualified to perform. These cost-cutting practices are designed to increase
2 the OMIDIS' profit margin at the expense of the patients' safety. When patients have died or have
3 had a life-threatening medical emergency occur during surgery, the Plaintiffs are informed and
4 believe that the OMIDIS have engaged in systematic and illegal cover ups to thwart investigations
5 by public health authorities and law enforcement agencies by falsifying medical records, removing
6 and hiding malfunctioning medical equipment and concealing information from regulators and law
7 enforcement during their inspections to prevent these violations of the law from being discovered.

8 2. Plaintiff DYANNE C. DEUEL is a resident of the County of Los Angeles, State of
9 California and the former manager of the surgical techs for all of the OMIDIS' outpatient surgical
10 facilities. DEUEL has worked as a paramedic in the State of California, is a certified surgical
11 technologist, a First Assistant, a BCLS instructor and a surgical technology instructor. DEUEL
12 was employed by the OMIDIS from February 2011 until November 21, 2011 and worked out of
13 the BEVERLY HILLS SURGERY CENTER (now known as NEW LIFE SURGERY CENTER),
14 located at 9001 Wilshire Boulevard, Suite 106, Beverly Hills, California, which is the
15 headquarters of the OMIDIS' enterprises. DEUEL would also frequently travel to the OMIDIS'
16 VALLEY SURGICAL CENTER, located at 7320 Woodlake Avenue, Suites 310 & 320, West
17 Hills, California. DEUEL was responsible for supervising all surgical techs at all eight of the
18 OMIDIS' surgery centers, which are:

19 a. **New Life Surgery Center** (formerly known as Beverly Hills Surgery
20 Center, and before that Almont Ambulatory Surgery Center, Inc.), 9001 Wilshire Blvd, Suite 106,
21 Beverly Hills, CA., 90211;

22 b. **Valley Surgical Center**, 7320 Woodlake Ave., Suites 310 & 320,
23 Woodland Hills, CA., 91307

24 c. **Valencia Ambulatory Surgery Center, LLC**, 25775 McBean Parkway,
25 Suite 108, Valencia, CA., 91355;

26 d. **Bakersfield Surgery Institute, LLC**, 9610 Stockdale Hwy, Suite A,
27 Bakersfield, CA., 93311;

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1 e. **Palmdale Ambulatory Surgery Center, LLC**, 1529 E. Palmdale Blvd,
2 Suite 207, Palmdale, CA., 93550;
3 f. **San Diego Ambulatory Surgery Center, LLC**, 3434 Midway Drive,
4 Suite 1008, San Diego, CA., 92110;
5 g. **Ciro Surgery Center**, 125 Ciro Avenue, Suites 125 & 110, San Jose, CA.,
6 95128; and
7 h. **Eastbay Ambulatory Surgery Center**, 1860 Mowry Avenue, Suites 401
8 & 402, Fremont, CA., 94536.

9 3. Based upon her position, DEUEL was privy to the practices and procedures
10 employed by the OMIDIS at their various surgery centers throughout California.

11 4. Plaintiff KARLA OSORIO is a resident of the County of Los Angeles, State of
12 California, and a former surgical tech at the BEVERLY HILLS SURGERY CENTER, located at
13 9001 Wilshire Boulevard, Suite 106, Beverly Hills, California.

14 5. Plaintiff KIMBERLY TIRRE is a resident of the State of California, who contacted
15 1 800 GET THIN and was referred to a "free seminar" at DR. MICHAEL OMIDI, M.D.'s Apple
16 Valley office, located at 18182 Highway 18, Suite 106, Apple Valley, California, 92307. Despite
17 being advertised as a "free" seminar, the OMIDIS billed TIRRE's health insurance company,
18 Anthem Blue Cross, for this seminar as an "initial exam." At this seminar, TIRRE was told that
19 her insurance company required her to undergo a sleep study and endoscopy. Subsequently,
20 TIRRE had an endoscopy performed by Dr. Atul Madan at the OMIDIS' Valley Surgical Center.
21 She was told that her BMI score was 31. TIRRE was told that her insurance also required her to
22 have an ultrasound. The Defendants tried to sell TIRRE on having breast augmentation and
23 tummy tuck surgeries, all of which they promised would be paid by her insurance company.
24 TIRRE specifically asked Dr. Madan after her endoscopy if she had a hernia and she was told that
25 she did not have a hernia. However, the Request for Authorization Defendants sent to Anthem
26 Blue Cross states that TIRRE had a "hiatal hernia CPT 39599", which TIRRE believes is false.
27 This Request further states that TIRRE's weight was 221, when in fact it was only 215 lbs.

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1 TIRRE believes that Defendants falsified her information in order to induce her health insurance
2 company to agree to pay for her Lap Band surgery.

3 6. Further TIRRE is also informed and believes, and thereon alleges that the
4 Psychological Consultation, and the Nutritionist letter submitted in support of the Defendants'
5 Request for Authorization sent to Anthem Blue Cross were fraudulent.

6 7. Further, TIRRE was notified by Anthem Blue Cross that her "attorney" had
7 submitted a grievance concerning their denial to pay some of the Defendants' bills. When Anthem
8 Blue Cross produced these "grievances" to TIRRE, she discovered that ROBERT SILVERMAN,
9 ESQ., the CEO of 1 800 GET THIN, had sent a letter to Anthem dated June 13, 2011, on his law
10 firm letterhead "Silverman and Associates", as the attorney for the "Provider", threatening Anthem
11 with a lawsuit if they did not pay the Defendants' bills. TIRRE also discovered that on August 8,
12 2011, Patient Advocacy Law Group (PALG) had submitted "an appeal on behalf of Kimberly
13 Tirre" to Anthem and threatened a lawsuit against Anthem if it did not pay the Defendants' bills.
14 At no time did TIRRE ever retain PALG to represent her or authorize them to send an appeal to
15 Anthem on her behalf. Valley Surgical Center, LLC, sent a letter to TIRRE in the summer of
16 2011, which requested that TIRRE sign an attorney retainer agreement with PALG, which was
17 attached to the cover letter. TIRRE never signed the attorney retainer agreement with PALG. The
18 letter also attached an "authorization" from PALG for TIRRE to sign, which indicated that the
19 mailing address for PALG was 9100 Wilshire Boulevard, Suite 530E, Beverly Hills, CA. This is
20 an office maintained by the OMIDIS. Plaintiffs are informed and believe that PALG is a fictitious
21 law firm fronted by the OMIDIS formed for the purpose of making legal threats and claims
22 against patients' healthcare insurers who refuse to pay the OMIDIS' bills for Lap Band and related
23 pre-operative tests and procedures. TIRRE is informed and believes that SILVERMAN and
24 PALG are part of the OMIDIS' criminal enterprise designed to defraud her health insurance
25 company. Plaintiffs are informed and believe that SILVERMAN was one of the original officers
26 and directors of PALG when it was incorporated.

27 8. Plaintiff SAMANTHA FINKS is a resident of the State of California and contacted
28 1 800 GET THIN in approximately January of 2011 for Lap Band surgery. FINKS attended a

1 "free seminar" on January 8, 2011, but the Defendants billed her health insurance company, Blue
2 Cross Blue Shield of Texas, \$600 for this "free" seminar as a "medical visit". Further, Defendants
3 billed FINKS' insurance company the sum of \$4,590.00 for an endoscopy and claimed she had a
4 "diaphragmatic hernia" when in fact she did not have this condition.

5 9. Plaintiff ELISABETH JOHNSON is a resident of the State of California, who
6 contacted 1 800 GET THIN and was directed to attend a "free seminar" on January 11, 2011.
7 JOHNSON's health insurance company, BlueCross Blue Shield of Texas, was billed the sum of
8 \$600 for this "free seminar" as a "medical visit". Further, JOHNSON's insurance company was
9 billed \$4,825 for "X-ray Services" on February 7, 2011, \$4,592 for anesthesia on that same date,
10 \$4,200 for lab services on that same date, and \$13,890 for "operating room", "recovery room" and
11 supplies on that same date. JOHNSON was also told that she needed to have her gall bladder
12 removed before the Defendants could perform her Lap Band surgery. On March 3, 2011,
13 Defendants billed JOHNSON's insurance company \$52,020 to remove her gall bladder. On
14 February 18, 2011, Defendants billed JOHNSON's insurance company \$15,025 for a "sleep
15 study". JOHNSON is informed and believes that the sleep study, gall bladder removal, X-ray and
16 other medical procedures were medically unnecessary and were performed solely for the purpose
17 of committing insurance fraud.

18 10. Further, despite the fact that JOHNSON endorsed all checks she received from her
19 insurance company and forwarded them to Defendants, on December 21, 2011, ROBERT
20 SILVERMAN, ESQ., sent an "Advisement of Fraud" letter to JOHNSON's health insurance
21 company, claiming that JOHNSON had refused to forward Blue Cross Blue Shield's payments to
22 BEVERLY HILLS SURGERY CENTER and thus had committed fraud.

23 11. Plaintiff JAMES THACKER is a resident of the State of California who contacted
24 1 800 GET THIN for Lap Band surgery and was directed to attend a "free seminar", which he
25 attended on January 11, 2011. THACKER's healthcare insurer, BlueCross BlueShield of Texas,
26 was billed \$600 for a "medical visit" for this "free" seminar.

27 12. Plaintiff NANCY L. MUNOZ is a resident of the State of California, who
28 contacted 1 800 GET THIN in or about October, 2008 for Lap Band surgery. MUNOZ had her

1 first Lap Band surgery on November 20, 2008. Due to complications, Defendants performed a
2 second Lap Band surgery on her in March, 2009. Again in March, 2010, she underwent a third
3 surgery from Defendants to try and correct problems with her Lap Band. On August, 21, 2011,
4 MUNOZ was admitted to the emergency room at Loma Linda Hospital in septic shock.
5 Defendants billed MUNOZ' health insurance company hundreds of thousands of dollars for
6 multiple surgeries, which unsuccessfully tried to correct their own mistakes.

7 13. Plaintiff TUQUISHA WILLIAMS is a resident of the State of California, who
8 contacted 1 800 GET THIN in March of 2009. WILLIAMS attended a "free seminar", but her
9 health insurance company, Blue Cross Blue Shield of Minnesota, was billed by Defendants for a
10 "medical visit" for this "free" seminar. In total, Defendants have billed WILLIAMS' insurance
11 company approximately \$179,499 for medical procedures, many of which billings WILLIAMS
12 believes are fraudulent.

13 14. Plaintiff DARLENE FLORIANO is a resident of the County of Los Angeles, who
14 contacted 1 800 GET THIN on or about June 1, 2010 for Lap Band surgery. FLORIANO
15 underwent an endoscopy and sleep study at the Defendants' Valley Surgical Center on or about
16 June 10, 2010. Defendants billed FLORIANO's health insurance company for a "hiatal hernia
17 repair" however, FLORIANO believes that she never had this condition and that this charge was
18 fraudulent by the Defendants.

19 15. Plaintiff JACQUELYNN BECERRA is a resident of the County of Los Angeles,
20 who contacted 1 800 GET THIN on or about February, 2011 for Lap Band surgery. BECERRA
21 was told that her insurance company, Continental General, had approved payment for her surgery;
22 however, in reality it had not. Defendants have billed Continental General a total of \$54,245.50
23 for an endoscopy, sleep study and blood labs performed at their Valencia facility. Despite telling
24 BECERRA that all of these charges would be covered by her insurance company, Continental
25 Insurance company has paid only a small fraction of these charges.

26 16. Plaintiff DAVID STADE is a resident of the County of Los Angeles, who
27 contacted 1 800 GET THIN on or about October 19, 2010 when he attended a "free seminar" at
28 Weight Loss Center, 4201 Long Beach Blvd., Long Beach, CA. STADE was told that he

1 qualified for the Lap Band surgery, and that his health insurer, Blue Shield of California, had pre-
2 approved his surgery. STADE was further told that before he could have the Lap Band surgery,
3 he needed to undergo an endoscopy, ultrasound, blood tests, two sleep apnea tests, a stress
4 echocardiogram, a nuclear stress test and physician consultations. STADE underwent each of
5 these recommended procedures. Contrary to the Defendants' representations to him, STADE's
6 health insurer had an exclusion in its policy for weight loss surgery and so could never have pre-
7 approved these procedures. As a result, STADE's insurance carrier denied payment for these
8 procedures.

9 17. Plaintiff CASSIE GIBBONS is a resident of the County of Los Angeles, who
10 contacted 1 800 GET THIN in July of 2008 for Lap Band surgery. GIBBONS underwent Lap
11 Band surgery on October 8, 2008 at the OMIDIS' Beverly Hills facility, then known as ALMONT
12 AMBULATORY SURGERY CENTER, located at 9001 Wilshire Blvd, Suite 106, Beverly Hills,
13 CA. GIBBONS paid \$18,000 on her credit card for this surgery, as well as the pre-operative tests
14 that they required her to undergo. Following her Lap Band surgery, Defendants asked GIBBONS
15 to appear in a T.V. commercial for 1 800 GET THIN, to which she agreed. GIBBONS was paid
16 \$200 to appear in this commercial and act as a spokesperson for 1800 GET THIN. GIBBONS'
17 commercial was widely broadcast on television spots in the Los Angeles area, which accurately
18 stated that she had lost 102 lbs. However, shortly after the T.V. commercials began to run,
19 Defendants also used her voice in their radio ads without her permission and without any further
20 compensation to her. Thereafter, the Defendants asked GIBBONS to pose for a print ad in
21 magazines, for which they paid her an additional \$150. Thereafter, during the entire year of 2010,
22 Defendants used her photo on hundreds of billboards and bus placards throughout California, for
23 which she did not give her permission and did not receive any additional compensation. The
24 billboard and bus placard ads by the Defendants exaggerated GIBBONS' weight loss and
25 fraudulently advertised that she has lost "110 lbs." A true and correct copy of the T.V. ad and a
26 billboard depicting CASSIE GIBBONS is attached hereto as Exhibit "A".

27 18. Plaintiff GEORGIANA PACHECO is a resident of the County of Los Angeles,
28 who contacted 1 800 GET THIN on or about February 2008 for Lap Band surgery. PACHECO

1 was told that because she was a "cash patient", she did not need to undergo the pre-operative tests
2 that the insurance-paying patients had to undergo. Thus, PACHECO was told by the Defendants
3 that she did not need an endoscopy, sleep study, etc. PACHECO underwent her Lap Band surgery
4 on October 3, 2008 at BEVERLY HILLS SURGERY CENTER. On or about February 11, 2010,
5 PACHECO was admitted to Garfield Medical Center complaining of severe abdominal pain and
6 vomiting. She was admitted to the Emergency Department and diagnosed with a "gastric outlet
7 obstruction" secondary to her Lap Band procedure, which had caused "hemorrhagic necrosis of
8 mucosa, concerning vascular compromise of the pouch." Her white blood count was 23,900 with
9 tachycardia to 140 beats per minute. PACHECO underwent emergency surgery to remove her
10 Lap Band, which had slipped and caused damage to her stomach. PACHECO was placed in the
11 CCU and remained hospitalized for 12 days before being released. Plaintiff is informed and
12 believes and thereon alleges, that because she was a cash patient, Defendants did not perform
13 critical pre-operative testing to ensure she was a good candidate for the Lap Band surgery, and
14 further, Defendants refused to perform an endoscopy and other procedures to investigate her
15 chronic post-operative complaints of abdominal pain and vomiting. In fact, Plaintiff is informed
16 and believes, and thereon alleges, that the Defendants noted in her medical chart during her follow
17 up visits that she needed an endoscopy, but refused to do so, presumably because they could not
18 bill an insurance company for this procedure.

19 19. Plaintiffs are informed and believe, and thereon allege that Defendant, 1 800 GET
20 THIN, LLC, was organized as a California limited liability company on or about March 11, 2010
21 by Defendant, ROBERT B. SILVERMAN, ESQ. Plaintiffs are informed and believe that
22 SILVERMAN is the CEO and President of 1 800 GET THIN, LLC.

23 20. Plaintiffs are informed and believe, and thereon allege that Defendant, NEW LIFE
24 SURGERY CENTER, LLC, was organized as a California limited liability company by Alexander
25 Weisse, Esq., on or about June 9, 2010, with an undisclosed single manager. Plaintiffs are
26 informed and believe that the sole manager of this Defendant is Defendant, JULIAN OMIDI or his
27 brother, MICHAEL OMIDI, M.D.

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1 21. Plaintiffs are informed and believe, and thereon allege, that Defendant VALLEY
2 SURGICAL CENTER, LLC. is a limited liability company which was organized on December 15,
3 2009, and exists under the laws of the State of California, located at 7320 Woodlake Ave., Suites
4 310 & 320, West Hills, CA., 91307.

5 22. Plaintiffs are informed and believe, and thereon allege that Defendant BEVERLY
6 HILLS SURGERY CENTER, LLC. was organized on or about June 10, 2009, by THOMAS C.
7 CLOUD and that Defendant, JULIAN OMIDI was the original chief executive officer and
8 Defendant, CINDY OMIDI was the manager. On or about March 3, 2010, Atul Madan, M.D.
9 became the chief executive officer and MARIA ABACA became the manager. Plaintiffs are
10 informed and believe that BEVERLY HILLS SURGERY CENTER operates at 9001 Wilshire
11 Blvd., Suite 106, Beverly Hills, CA., 90211, and is now known as NEW LIFE SURGERY
12 CENTER.

13 23. Plaintiffs are informed and believe, and thereon allege, that Defendant KAMBIZ
14 BENIAMIA OMIDI, aka "JULIAN OMIDI" (hereinafter referred to as "JULIAN OMIDI") is the
15 president of TOP SURGEONS, INC., the principal of Defendant TOP SURGEONS, LLC., the
16 President of ALMONT AMBULATORY SURGERY CENTER, and the Chief Executive Officer
17 of Defendant, BEVERLY HILLS SURGERY CENTER, LLC. Plaintiffs are further informed and
18 believe, and thereon allege, that the State of California revoked JULIAN OMIDI's physician and
19 surgeon's license on June 19, 2009, for dishonesty, unprofessional conduct, failing to disclose
20 criminal convictions and a "penchant for dishonesty, to bend his position and shade his statements
21 to suit his needs, without consistent regard for the truth." Despite the fact that his physician and
22 surgeon's certificate has been revoked by the Medical Board of California, Plaintiffs are informed
23 and believe, and thereon allege, that JULIAN OMIDI owns and manages ALMONT
24 AMBULATORY SURGERY CENTER and Defendants, TOP SURGEONS and BEVERLY
25 HILLS SURGERY CENTER, all of which routinely perform Lap Band surgeries.

26 24. Plaintiffs are informed and believe, and thereon allege, that Defendant MICHAEL
27 OMIDI, M.D., is the Chief of Staff and Director of Surgery of Defendants, TOP SURGEONS and
28 BEVERLY HILLS SURGERY CENTER, LLC, and that the State of California revoked

1 MICHAEL OMIDI, M.D.'s physician and surgeon's license effective October 3, 2008, for aiding
2 and abetting the unlicensed practice of medicine and for gross negligence in the treatment of three
3 (3) patients, but his license revocation has been stayed for a period of three (3) years of probation.

4 25. Plaintiffs are informed and believe, and thereon allege, that Defendant DE VIDA
5 USA, INC. is a corporation existing under and by virtue of the laws of the State of California, and
6 was incorporated on May 23, 2005. According to the Secretary of State's records, Defendant
7 JULIAN OMIDI is the registered agent for service of process for DE VIDA. Plaintiffs are further
8 informed that the employees of the OMIDIS' eight surgery centers are all paid payroll checks by
9 DE VIDA.

10 26. Plaintiffs are informed and believe, and thereon allege that Defendant ROBERT
11 SILVERMAN is an attorney licensed under and by virtue of the laws of the State of California and
12 resident of the County of Los Angeles. Plaintiffs are further informed and believe that
13 SILVERMAN is the CEO and President of 1 800 GET THIN, LLC., and was a founding director
14 for PALG.

15 27. Plaintiffs are informed and believe, and thereon allege, that Defendant ROBERTO
16 MACATANGAY is a resident of the County of Los Angeles and acts as the CEO of the OMIDIS'
17 enterprise. Plaintiffs are further informed and believe that although the OMIDIS' staff are
18 encouraged to address MACATANGAY as "Dr. Bobby", MACATANGAY is not a medical
19 doctor licensed in the State of California.

20 28. Plaintiffs are informed and believe, and thereon allege, that Defendant MARIA
21 ABACA is a resident of the County of Los Angeles and is a registered nurse, who acts as the
22 Bariatric Program Coordinator for the OMIDIS' enterprise, and is the girlfriend of Defendant
23 MICHAEL OMIDI.

24 29. Plaintiffs are informed and believe, and thereon allege, that Defendants JULIAN
25 OMIDI, MICHAEL OMIDI, M.D., CINDY OMIDI, 1 800 GET THIN, LLC, TOP SURGEONS,
26 LLC, NEW LIFE SURGERY CENTER, LLC, DE VIDA USA, LLC, BEVERLY HILLS
27 SURGERY CENTER, LLC, VALLEY SURGICAL CENTER, LLC., ALMONT
28 AMBULATORY SURGERY CENTER, INC., ANTELOPE VALLEY SURGICAL CENTER,

1 LLC, CALIFORNIA HOSPITAL MANAGEMENT & COLLECTIONS, INC., LAP BAND
2 SPECIALISTS, LLC, SKIN CANCER AND RECONSTRUCTIVE SURGERY SPECIALISTS
3 OF BEVERLY HILLS, SKIN CANCER AND RECONSTRUCTIVE SURGERY SPECIALISTS
4 OF VALENCIA, SURGERY CENTER MANAGEMENT, LLC, PATIENT ADVOCACY LAW
5 GROUP (PALG); and DOES 1 through 200, inclusive, are the successor, predecessor, affiliate
6 and/or alter egos of each other and each of these named Defendants are and have been controlled
7 by the same officers, directors, principals and shareholders, and that each said Defendant owned,
8 occupied, managed and controlled ambulatory surgical hospital facilities in the County of Los
9 Angeles, and elsewhere in Southern California, and held out to the public at large, including
10 Plaintiffs herein, that they were properly equipped, fully accredited, competently staffed and
11 qualified with prudent personnel, and operating in compliance with the standard of due care
12 maintained in other properly equipped, efficiently operated and administered accredited skilled
13 ambulatory surgical hospitals, clinics and medical groups in the community. Plaintiffs are
14 informed and believe, and thereon allege, that Defendants, and each of them, administrated,
15 governed, controlled, managed and directed all of the necessary functions, activities and
16 operations of said facilities, including its medical, surgical and nursing care.

17 30. Plaintiffs are informed and believe, and thereon allege, that the above-named
18 Defendants are the alter-egos of each other. Plaintiffs are informed and believe, and thereon
19 allege, that each named Defendant is, and was, at all times mentioned herein, acting as the agent
20 and conduit of the other Defendants. Plaintiffs are informed and believe, and thereon allege, that
21 there is a unity of interest between and among the Defendants. Plaintiffs are further informed and
22 believe and thereon allege that in light of the unity of interest and control, if each named
23 Defendant is not held liable for the debts and obligations of the other Defendants, a fraud and
24 injustice would result upon the Plaintiffs. Accordingly, Plaintiffs seek judgment against each of
25 the above-named Defendants. Plaintiffs are informed and believe, and thereon allege, that the
26 OMIDIS have created and operated each of the corporate and limited liability entities named as
27 Defendants herein as part of a scheme to defraud consumers and conceal the identities of the true
28 owners of these companies because of the OMIDI brothers' disciplinary history with the

1 California Medical Board. Further, Plaintiffs allege that the OMIDIS have used the corporate and
2 limited liability entities interchangeably on letterhead, business cards, contracts and invoices
3 provided to the Plaintiffs creating a unity of interest between the OMIDIS and their corporate and
4 limited liability entities such that if the OMIDIS are not held liable for the debts and obligations of
5 their corporate and limited liability entities, a fraud and injustice would result upon the Plaintiffs.

6 31. Plaintiffs are informed and believe and thereon allege, that at all times herein
7 mentioned, each of the Defendants was the agent, servant and/or employee of each of the
8 remaining Defendants, and at all times herein mentioned was acting within the course and scope of
9 said agency, employment and/or conspiracy with the full knowledge, consent, permission and
10 ratification of each of their co-Defendants.

11 32. The true names and capacities, whether individual, corporate, associate or
12 otherwise, of DOES 1 through 200, inclusive, are unknown to Plaintiffs, who therefore sue these
13 Defendants by such fictitious names. Plaintiffs are informed and believe, and thereon allege that
14 each of the Defendants designated as a DOE is a resident of, or business entity doing business in,
15 the State of California and is responsible in some manner for the events and happenings herein
16 referred to, and proximately caused injury and damages to Plaintiffs as hereinafter alleged.

17 33. Plaintiffs are informed and believe, and thereon allege that at all times herein
18 mentioned, each of the Defendants sued herein as DOE was the agent, alter-ego, servant and
19 employee of each of the remaining Defendants herein and was acting within the scope and purpose
20 of such agency, service and employment. Plaintiffs are informed and believe, and thereon allege,
21 that the OMIDIS have created a criminal enterprise consisting of various shell companies for the
22 sole purpose of concealing from the public and regulators the fact that the OMIDIS' own and
23 control each of the outpatient surgery centers referred above and to create the illusion that the
24 marketing of the Lap Band procedures by 1 800 GET THIN, the referral of patients to their
25 various surgery centers, and the billing to the patients' insurance companies are all done via arms-
26 length transactions. However, the truth is that all of the marketing, surgical centers and billing are
27 controlled by the OMIDIS. Specifically, the OMIDIS' surgery centers are controlled by a
28 "governing body", which is comprised of JULIAN OMIDI, ROBERTO MACATANGAY, as

1 CEO, MARIA ABACA, RN., as Bariatric Program Coordinator, and the current medical director
2 of Bariatric Surgery (which has changed numerous times during the past two years). A copy of
3 the OMIDIS' organizational chart is attached hereto as Exhibit "B".

4 **A. Cover-Up of the Death of Paula Rojeski:**

5 34. Plaintiff DEUEL is informed and believes, and thereon alleges, that on or about
6 September 8, 2011, patient Paula Rojeski underwent Lap Band surgery at the OMIDIS' VALLEY
7 SURGICAL CENTER, located at 7320 Woodlake Avenue, West Hills, California. Ms. Rojeski's
8 surgeon was Dr. Julius Gee and her anesthesiologist was Dr. Chau. Plaintiffs are informed and
9 believe that Ms. Rojeski's case was started with the oxygen tank on Dr. Chau's anesthesia cart
10 turned off. Therefore, at this point, Ms. Rojeski had been medicated, sedated, paralyzed and under
11 anesthesia, breathing room air only for approximately 30 minutes without any oxygen delivery
12 from the oxygen tank.

13 35. Plaintiff DEUEL is also informed and believes that shortly before Dr. Gee made
14 the initial incision, Dr. Chau announced that he had no oxygen level registering on the oxygen
15 tank on his anesthesia cart. The surgical tech asked Dr. Chau if he had turned on the valve to the
16 oxygen tank on his cart, and when he looked, Dr. Chau discovered that the valve on the oxygen
17 tank was in the off position. Dr. Chau then turned on the valve on the oxygen tank. DEUEL is
18 further informed and believes, and thereon alleges, that during the surgery, Dr. Chau stated that
19 the blood pressure cuff hooked up to Ms. Rojeski was not working properly, because it registered
20 a systolic blood pressure rate of only 70. The nurse then retrieved another blood pressure cuff and
21 was instructed to leave both blood pressure cuffs on each of Ms. Rojeski's arms during surgery.
22 The second blood pressure cuff gave a systolic blood pressure reading of 120. Dr. Chau chose to
23 ignore the lower blood pressure reading on the first device and instead followed and charted the
24 higher blood pressure reading on the second device. However, it was later discovered that the
25 second device was faulty, and the correct systolic blood pressure of Ms. Rojeski was 70 during the
26 operation (i.e., she was in distress or "crashing").

27 36. Plaintiff DEUEL is further informed and believes, and thereon alleges that during
28 the surgery, Dr. Gee stopped the surgery several times and asked Dr. Chau if everything was

1 alright, because Ms. Rojeski began "bucking" on the operating table and alarms on the monitors
2 continued to go off. Dr. Chau responded by stating that the monitors were simply malfunctioning
3 (which DEUEL alleges is a common occurrence at all of the OMIDI's surgery centers) and that
4 everything was alright.

5 37. Plaintiff DEUEL is informed and believes, and thereon alleges, that unbeknownst
6 to Dr. Gee and the charge nurse at that time, Dr. Chau had modified the IV tube into Ms. Rojeski's
7 arm with an unusual port connection, which caused the IV tube to come loose during surgery. As
8 a result, the anesthesia, paralytic, sedation and IV fluids drained onto the ground below the
9 operating table hidden by the surgical drape and the operation was performed on Ms. Rojeski
10 without the benefit of these drugs. Dr. Gee completed the Lap Band procedure, and scrubbed out
11 of the operating room, leaving Dr. Chau with Ms. Rojeski. Several minutes later, Dr. Chau calmly
12 asked the charge nurse to have Dr. Gee return to the O.R. When Dr. Gee returned, Dr. Chau stated
13 that something was wrong. Dr. Gee checked the patient, and then yelled, "She doesn't have a
14 pulse. Call 911" and he began administering CPR. When the OMIDIS' staff called 911, they
15 failed to provide critical information to the 911 dispatcher, including the fact that Ms. Rojeski had
16 been down with no pulse and not breathing for more than 15 minutes. Ms. Rojeski was
17 transported by paramedics to West Hills Hospital, where she was pronounced dead.

18 38. Plaintiff DEUEL is further informed and believes, and thereon alleges, that
19 immediately following Ms. Rojeski's death, MICHAEL OMIDI, M.D., instructed MARIA
20 ABACA, RN, the OMIDIS' Bariatric Program Coordinator, and MICHAEL OMIDI's girlfriend, to
21 send drivers employed by the OMIDIS to the VALLEY SURGICAL CENTER to remove all of
22 the defective equipment, monitors, etc. and bring them back to the OMIDIS' Beverly Hills Surgery
23 Center before the Department of Health and Los Angeles County Coroner's Office showed up for
24 an announced visit to investigate Ms. Rojeski's death. Per MICHAEL OMIDI, M.D.'s orders, all
25 of the equipment which had been used during Ms. Rojeski's surgery was removed from the
26 VALLEY SURGICAL CENTER and replaced with equipment brought over from the BEVERLY
27 HILLS SURGERY CENTER prior to the inspection by the Los Angeles Department of Health
28 and Coroner's Office. The defective equipment removed from the VALLEY SURGICAL

1 CENTER was stored in Operating Room No. 3 at the BEVERLY HILLS SURGERY CENTER,
2 where all broken and defective equipment is kept from all of the OMIDIS' surgery centers.
3 Further, prior to the inspection by the Department of Health and Coroner's Office, MICHAEL
4 OMIDI, M.D., ordered a complete cleaning of the VALLEY SURGICAL CENTER, and ordered
5 that Ms. Rojeski's medical charts and file be removed and taken back to the Beverly Hills main
6 office, where they were kept in the office of Defendant ROBERTO MACATANGAY ("aka Dr.
7 Bobby").

8 39. Plaintiff DEUEL, is further informed and believes that following Ms. Rojeski's
9 death, Melody Chua, the charge nurse during Ms. Rojeski's surgery, showed Ms. Rojeski's
10 anesthesia record and medical chart to DEUEL. Further, Dr. Gee, the charge nurse and the
11 surgical tech all separately told DEUEL what had happened in the operating room during Ms.
12 Rojeski's surgery. Based upon DEUEL's review of Ms. Rojeski's original anesthesia record, it
13 showed that Ms. Rojeski has "coded" approximately fifteen (15) minutes prior to the time that Dr.
14 Chau had announced this critical event to anyone else in the operating room. Melody Chua told
15 DEUEL that she had been asked to prepare a "root cause analysis" of Ms. Rojeski's death, but that
16 she didn't know how to do it because she had never done one before. Thereafter, Plaintiff
17 DEUEL is informed and believes that a meeting was held between MICHAEL OMIDI, M.D., Dr.
18 Chau, MARIA ABACA, RN., Dr. Gee and ROBERTO MACATANGAY where MICHAEL
19 OMIDI, M.D., instructed Dr. Chau to falsify Ms. Rojeski's anesthesia record to delete the 15
20 minute gap between when the patient "coded" and when Dr. Chau first told anyone about this
21 critical event. DEUEL is informed and believes that at this meeting, MICHAEL OMIDI, M.D.,
22 then handed the original anesthesia record for Ms. Rojeski back to Dr. Chau, and Dr. Chau altered
23 and falsified Ms. Rojeski's record to delete the 15 minute gap. Plaintiffs are informed and believe
24 that Ms. Rojeski's death was never reported by the Defendants to the Medical Board or U.S. FDA
25 as required by law.

26 **B. Another Patient Almost Dies Three Days after Rojeski's Death:**

27 40. Plaintiff DEUEL is informed and believes, and thereon alleges that just three (3)
28 days after the death of Ms. Rojeski, another patient nearly died at the Valley Surgical Center. A

1 patient of Dr. Marinescu who was undergoing a hysterectomy surgery, began to bleed out. All
2 three electrocautery (Bovie) machines available at the facility failed. The patient lost half of her
3 blood volume and was transported by paramedics to West Hills Hospital, where she underwent 2-3
4 blood transfusions and was hospitalized in ICU for at least a week. Plaintiff DEUEL is informed
5 and believes that the staff at the Valley Surgical Center had to call Dr. MICHAEL OMIDI for his
6 permission to transfer this critical patient to the hospital. This sentinel event was never reported
7 by the Defendants to the Medical Board or any other regulatory agency.

8 41. Plaintiff DEUEL is further informed and believes that on or about December 15,
9 2011, a patient of Dr. Von Mauer undergoing a panniculectomy at the BEVERLY HILLS
10 SURGERY CENTER aspirated when the anesthesiologist Dr. John Ogai attempted to intubate the
11 patient without first performing suctioning. After the patient aspirated (vomited from the nose and
12 mouth), Dr. Ogai continued to attempt to intubate the patient in a supine position. The medical
13 staff left the patient on the table for 45 minutes before calling 911. When paramedics arrived, they
14 stated that the patient was too critical to transport and they called for more paramedics. A total of
15 six (6) paramedics ultimately arrived. When questioned by the paramedics, Dr. Ogai was
16 confrontational and refused to provide them with critical information necessary for the emergency
17 treatment of the patient. The patient was transported to Olympia Hospital. This critical event was
18 not reported by the OMIDIS to the Medical Board or any other health agency.

19 **C. Lack of Sterilization of Surgical Instruments:**

20 42. Plaintiffs DEUEL and OSORIO are informed and believe, and thereon allege that
21 none of the OMIDIS' eight surgical centers follow standard aseptic techniques to clean their
22 surgical instruments. For example, none of the OMIDIS' surgical centers has an autoclave, except
23 the BEVERLY HILLS SURGERY CENTER. The rest of the OMIDIS' surgery centers use a
24 magnaclave, which is much smaller and is not designed for sterilizing large surgical instruments.
25 Plaintiffs are informed and believe, and thereon allege, that at all eight of the OMIDIS' surgery
26 centers, the routine practice is to stack surgical instrument trays on top of each other in the
27 magnaclaves or autoclave, instead of the proper technique of placing the instruments in a vertical
28 position so that all surfaces of the instruments can be sterilized. This improper technique routinely

1 results in entire trays of surgical instruments remaining wet after removal from the magnaclaves,
2 creating the risk of infection to patients. Further, the EDG scopes and lumens are not flushed
3 between patients.

4 43. Further, the surgical techs are instructed to "prep from the floor", meaning that the
5 patients are prepped for surgery in a pre-op room standing up ("standing prep"), while the surgical
6 techs scrub them with sponges. However, the surgical techs frequently open the sealed sterile
7 sponge package and then place the package on the floor while they scrub the patient's body. This
8 unsterile technique is known as "prepping from the floor". Patients are then forced to walk on the
9 dirty floor to the operating room carrying their own IV bag instead of being transported into the
10 OR by a hospital bed or gurney. This practice of forcing the patients to climb up onto the OR bed
11 from the non-sterile floor breaks the sterile field on and around the OR bed. Additionally, the
12 OMIDIS will not pay for proper surgical prep supplies. The surgical techs are given only gloves,
13 and no gowns, to set up a sterile field in the OR's before and between surgeries. The surgical techs
14 are told to prep patients by using countable lap-sponges for body prep, instead of the proper
15 surgical prep kits to remove transient flora and bacteria from the patients' skin before surgery.
16 The surgical techs are further instructed to only use biocide wipes to clean the OR tables between
17 surgeries, instead of proper aseptic technique which requires soaking the OR bed in biocide from a
18 spray bottle and allowing the biocide to stand for 10 minutes before wiping down the OR bed.
19 The floor is not cleaned between surgeries, and frequently there is blood, sutures, and body tissue
20 left on the bed rails and bloody instruments left on the OR floor under the OR beds. Recent
21 photos of this unsanitary condition below the OR bed in OR No. 2 at the Beverly Hills Surgery
22 Center is attached hereto as Exhibit "C".

23 44. Further, the biohazard room at the BEVERLY HILLS SURGERY CENTER
24 doubles as a storage room where supplies for the OR are kept. This room has dried blood on the
25 walls and on the floor and used syringe needles are discarded on the floor. A recent photo taken
26 by the Plaintiffs of this biohazard room is attached hereto as Exhibit "D".

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1 45. Plaintiffs are informed and believe, and thereon allege that there is a very high
2 incidence of post-operative infections at the OMIDIS' surgery centers, which requires frequent
3 debridements of the patients to remove dead or infected tissue.

4 **D. "Re-using Single-Use Medical Devices:**

5 46. Plaintiffs are informed and believe, and thereon allege that in order to cut corners
6 and save money, and thereby increase their profit margin, the OMIDIS instruct their surgeons and
7 surgical staff to "recycle" the laparoscopic trocars used during the Lap Band surgeries. A trocar is
8 a medical instrument with a sharply pointed end, often three-sided, that is used inside a hollow
9 cylinder (cannula) to introduce this into a patient's abdominal cavity. Trocars are also used to
10 introduce ports in the abdomen, such as during laparoscopic surgery. The trocar is passed inside a
11 cannula, and functions as a portal for the subsequent placement of the Lap Band device and the
12 laparoscopic camera. The trocars are single use devices ("SUD's) regulated by the U.S. FDA, but
13 can legally be recycled if the reprocessor has obtained the appropriate approval by the U.S. FDA
14 [known as a 510(k)]. If the reprocessor has been issued a 510(k), then the trocars can legally be
15 reprocessed no more than two (2) times, and then must be discarded. Thus, the trocars can legally
16 be used a total of three (3) times (once when new from the manufacturer, and two more times if
17 legally reprocessed). Plaintiffs are informed and believe that the OMIDIS instruct their staff to
18 place all used trocars in a box to be recycled and then reused. Plaintiffs are informed and believe,
19 and thereon allege, that the practice of recycling these trocars has resulted in broken pieces falling
20 into patients' wounds and the loss of CO2 gas from the gas valve on the instrument. CO2 gas is
21 used to inflate the patient's abdomen during Lap Band surgery. The Plaintiffs are informed and
22 believe that the OMIDIS bill the patients' insurance companies for new trocars for each surgery
23 performed. Plaintiffs are further informed and believe that the OMIDIS instruct their surgeons
24 and staff to re-use "J-hook" and "L-hook" devices, which are attached to the end of the electro-
25 cautery machines. These devices are intended to be used only approximately 20 times and then
26 discarded; however, the OMIDIS refuse to pay for replacements and instruct their staff to re-use
27 these devices, which are inserted into the abdomen of their patients, on an average of 30-40 times
28 a week. Plaintiffs are further informed and believe that the OMIDIS require their surgeons and

1 staff to re-use "Logicuts" scissors during surgeries, which are intended to be single-use only and
2 should be disposed of after each use.

3 **E. Performing Medically Unnecessary Surgical Procedures:**

4 47. Plaintiffs are informed and believe, and thereon allege, that the OMIDIS instruct
5 their surgeons to perform surgical procedures which are not medically necessary for the patients in
6 order to increase the billing to the patients' insurance companies. These unnecessary procedures,
7 include, but are not limited to, liver biopsies, hiatal hernia repairs, hysterectomies, bladder slings
8 and gall bladder removal. Plaintiffs are further informed and believe that Dr. Tashjian routinely
9 performs fake "hiatal hernia repairs" during Lap Band surgery by intentionally creating a tear of
10 the patient's tissue with a grasper instrument, and then suturing the tear he has just made, and then
11 taking a photo of the tear to support the OMIDIS' billing to insurance companies that the patient
12 needed a "hiatal hernia repair".

13 **F. Upcoding of Billing to Patients' Insurance Companies:**

14 48. Plaintiff DEUEL has attended doctor meetings at the OMIDIS' headquarters,
15 located at 9100 Wilshire Blvd, 8th Floor, Beverly Hills, CA., facility where Dr. MICHAEL OMIDI
16 has instructed all of the OMIDIS' doctors and staff, both in person and conferenced in on Skype
17 from the OMIDIS' other surgical centers, to engage in the practice of "upcoding", which involves
18 intentionally using improper billing codes – Current Procedural Technology (CPT) Codes, to
19 inflate their bills. CPT codes were jointly developed by the American Medical Association and
20 the Health Care Financing Administration and are the standardized nomenclature for use in
21 insurance claims. By using a false CPT code, Defendants represent that a particular exam or
22 procedure was more comprehensive than that actually performed. Defendants also routinely bill
23 the patients' insurance companies for charges by numerous different entities, all owned by the
24 OMIDIS, in order to confuse the insurers and make it look as if more services were actually
25 performed. This practice is a violation of Penal Code §550 and Insurance Code §1871.7(b).

26 49. Plaintiff DEUEL is further informed and believes, and thereon alleges, that the
27 OMIDIS hired THOMAS CLOUD as a consultant to devise schemes to bill the patients' insurance
28 companies for the use of surgical instruments and supplies. DEUEL was instructed to explain to

1 THOMAS CLOUD what instruments were used during the different type of surgeries performed
2 at the OMIDIS' surgery centers, so that CLOUD could figure out how to create the billing codes
3 and how much to charge for these instruments and supplies.

4 50. Plaintiffs are informed and believe, and thereon allege that according to the
5 Medical Board of California's ("MBC") website (www.mbc.ca.gov), CLOUD's California medical
6 license was revoked on June 10, 2004. Additionally, the Board lists three (3) separate criminal
7 convictions of CLOUD. In People v. Thomas Cloud, Orange County Superior Court Case No.
8 C98760, MBC records state that CLOUD "pled guilty to 1 count 14107-W&I (present or caused to
9 be present for allowance false and fraudulent claims for furnishing services under the Medi-Cal
10 Act)" and was sentenced to "sixteen months imprisonment at Terminal Island (run concurrent with
11 conditions imposed by federal government in cases # CR85455WDK and # CR91620LEW in
12 1993)".

13 51. Further, MBC records state the second criminal case against CLOUD occurred in
14 1999 in People v. Thomas Cloud, Los Angeles County Superior Court Case No. LA030705,
15 wherein the MBC states that CLOUD "plead *nolo contendere* to 1 count 245(A)(1)-PC (assault
16 with a deadly weapon). Finally, MBC records state that CLOUD plead guilty to 1 count of
17 possession of a narcotic controlled substance in 2001 in Los Angeles County Superior Court Case
18 No. BA205418.

19 52. Further, between 1986 and 2009, the MBC issued six (6) separate decisions and/or
20 orders against CLOUD's medical license. A detailed description of CLOUD's criminal
21 convictions and disciplinary actions taken against his medical licenses in both Alabama and
22 California can be found in the "Decision after Non-Adoption" dated February 3, 2009, issued by
23 the Medical Board of California and available on the MBC's website.

24 **G. Unlicensed Staff Performing the Unlawful Practice of Medicine:**

25 53. Plaintiffs are further informed and believe, and thereon allege that the OMIDIS
26 routinely require licensed vocational nurses (LVN's) to act as circulating nurses in the operating
27 rooms in place of registered nurses. Further, Plaintiff OSORIO alleges that on or about December
28 26, 2011, Dr. Tashjian, one of the OMIDIS' surgeons, forced OSORIO to act as the assistant

1 surgeon for two surgeries at the BEVERLY HILLS SURGERY CENTER, because the assistant
2 surgeon who was scheduled to assist Dr. Tashjian didn't show up. OSORIO was instructed to hold
3 the grasper instrument and assist in operating the laparoscopic camera for Dr. Tashjian. OSORIO
4 then witnessed the charge nurse write down the name of another assistant surgeon (Dr. Azizi) onto
5 the medical records of these two patients to make it appear that Dr. Azizi had performed the duties
6 which OSORIO had been forced to perform, presumably so that the OMIDIS could bill those
7 patients' insurance companies for this second surgeon.

8 54. Additionally, the OMIDIS routinely use a CRNA to administer anesthesia in the
9 operating rooms of the VALLEY SURGICAL CENTER when there is no anesthesiologist doctor
10 on the premises. CRNA's are supposed to work under the direct supervision of an
11 anesthesiologist.

12 **H. Lack of Proper Working Medical Equipment:**

13 55. Plaintiffs are informed and believe, and thereon allege, that the OMIDIS refuse to
14 maintain vital medical equipment in proper working condition at their surgery centers.
15 Specifically, the ventilators used at the surgery centers are undersized and not big enough for
16 obese patients. Further, the anesthesia machines have not been calibrated since 1981. The CO2
17 monitors malfunction frequently during surgeries. The EDG (endoscopy) scopes are frequently
18 broken.

19 **I. Call Center:**

20 56. Plaintiffs are informed and believe, and thereon allege that, despite their frequent
21 denials, the OMIDIS own and control the operations of 1 800 GET THIN, the call center, all of
22 their eight surgical centers, the billing department and their legal department. The 9100 Wilshire
23 Boulevard, 8th Floor, Beverly Hills location is the headquarters of the OMIDIS' enterprise. The
24 8th floor houses the offices of JULIAN OMIDI, Human Resources, the Call Center and the Billing
25 department. The 5th floor of 9100 Wilshire Blvd. houses the offices of ROBERT SILVERMAN,
26 Esq., and BRIAN OXMAN, Esq., along with Patient Advocacy Law Group (PALG), which
27 plaintiffs are informed and believe the OMIDIS created to file appeals with the patients' insurance
28 companies if they don't pay the claims submitted by the OMIDIS' surgery centers. Most of the

1 Call Center employees are Filipinos who reportedly are not U.S. citizens. The Call Center
2 operators answer incoming phone calls to the 1 800 GET THIN toll free phone number. The Call
3 Center operators are told that they will be fired if the potential patient hangs up before making an
4 appointment to attend a "free" Lap Band seminar. The Call Center operators are paid a
5 commission if they successfully convince the callers to attend a Lap Band seminar. The Call
6 Center operators are given a written script prepared by the OMIDIS to use when talking to
7 potential new patients. A copy of that script is attached hereto as Exhibit "E". In this script, the
8 Call Center operators are instructed to tell callers, "My friend Paulina in the office lost 120 lbs.
9 with the Lap Band. You should see her now! She looks great!" Plaintiffs are informed and
10 believe that this representation is false and "Paulina" is fictitious.

11 57. Plaintiffs are informed and believe that the actual surgery center for BEVERLY
12 HILLS SURGERY CENTER is located in suite 106 at 9001 Wilshire Blvd, Beverly Hills, CA.
13 Further, the charts for patients who are treated at all eight surgery centers are kept on the second
14 and third floor offices across the street at the 9100 Wilshire Blvd location and not at the surgery
15 centers where the actual surgeries are performed. All "problem" patient charts are kept under lock
16 in ROBERTO MACATANGAY's office at 9001 Wilshire Boulevard, Suite 105, Beverly Hills,
17 California (across the hall from the surgery center).

18 **J. Fraudulent Diagnosis to Support Request for Lap Band Payment to Insurers:**

19 58. Plaintiffs are informed and believe, and thereon allege, that at his deposition taken
20 on December 20, 2011 in Faitro v. Shamaan, et al (wrongful death action), Dr. Shamaan testified
21 under oath that he was instructed by JULIAN OMIDI to sign approximately 600 form letters,
22 which were sent to health insurance companies for these patients of the OMIDIS' surgery centers.
23 Dr. Shamaan testified that he never examined these patients or knew their medical histories before
24 he performed the mass-signing of these letters, which were intended to induce the patients'
25 insurance companies to approve payment for Lap Band surgeries for these patients. Dr. Shamaan
26 admitted at his deposition that this was fraud.

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1 **K. Witness Tampering and Suborning Perjury:**

2 59. Plaintiffs are informed and believe, and thereon allege, that on November 2, 2011,
3 Dr. Ihsan Najib Shamaan was deposed in the wrongful death lawsuit entitled, John Faitro, as heir
4 of the deceased Laura Lee Faitro v. Shamaan, et al, LASC Case No. SC 111 332. Dr. Shamaan
5 represents himself *in pro per* in that case, and was one of the Lap Band surgeons for Laura Faitro,
6 who died five (5) days after her surgery was performed at the OMIDIS' VALLEY SURGICAL
7 CENTER in West Hills on July 26, 2010. Because he is self-represented without an attorney,
8 Plaintiffs' counsel scheduled his deposition directly with Dr. Shamaan on a mutually convenient
9 date. Additionally, Dr. Shamaan voluntarily met with Plaintiffs' counsel, Alexander Robertson, IV
10 and John Walker, at least twice prior to his scheduled deposition, and indicated that he intended to
11 testify to and admit at his deposition his participation in insurance fraud and other violations of
12 state and federal laws committed at the request and direction of the OMIDIS. During each contact
13 with Dr. Shamaan prior to his deposition, attorneys Robertson and Walker would always begin the
14 conversation by asking Dr. Shamaan if he was still self-represented and was not represented by an
15 attorney. Dr. Shamaan always consistently and unambiguously indicated that he did not have an
16 attorney and was representing himself.

17 60. On November 2, 2011, Dr. Shamaan appeared as agreed for his deposition at the
18 law office of Robertson & Associates. However, Plaintiffs are informed and believe that
19 immediately prior to the start of his deposition, attorney BRIAN OXMAN showed up and claimed
20 that he had been hired to represent Dr. Shamaan. Dr. Shamaan's deposition was videotaped and
21 transcribed by a court reporter, and at least six attorneys were present for the various parties.
22 Plaintiffs are informed and believe that once Dr. Shamaan was sworn as a witness and his
23 deposition began, attorney OXMAN stated, "We're going to call the deposition right now. The
24 doctor is leaving with me. I have just been retained by the doctor." With that, OXMAN grabbed
25 Dr. Shamaan by the arm (which is visible on the videotape) and forcefully pulled him out of his
26 chair and out of Mr. Robertson's office, but not before Shamaan answered, "No" when asked on
27 the record if he was represented by counsel. Thereafter, OXMAN failed to respond to a written
28 request to confirm his representation of Dr. Shamaan and failed to file a Substitution of Attorney

1 form with the court to become Dr. Shamaan's attorney of record. Plaintiffs are informed and
2 believe, and thereon allege that OXMAN was hired by the OMIDIS to interfere with, prevent and
3 discourage Dr. Shamaan from giving testimony in the Faitro case, which was adverse to the
4 OMIDIS' interests and that would disclose crimes and violations of the law by the OMIDIS.

5 61. On December 20, 2011 with proper notice, Dr. Shamaan's was again deposed.
6 Plaintiffs are informed and believe that at this deposition, Dr. Shamaan appeared without counsel
7 and confirmed that at all times he had never been represented by OXMAN or any other attorney.
8 Plaintiffs are further informed and believe that Shamaan testified that approximately two weeks
9 before his deposition, he attended a meeting with JULIAN OMIDI, MICHAEL OMIDI and
10 BRIAN OXMAN at the OMIDIS' office at BEVERLY HILLS SURGERY CENTER, 9001
11 Wilshire Blvd., Suite 106, Beverly Hills, CA., where the OMIDIS offered to pay Dr. Shamaan for
12 false testimony. Specifically, at his December 20, 2011 deposition, Dr. Shamaan testified that
13 both OMIDI brothers dictated a Declaration to OXMAN, who typed the Declaration on
14 MICHAEL OMIDI's computer, stating that Plaintiffs' attorneys, Robertson and Walker, had
15 improperly communicated with Dr. Shamaan when they knew he was represented by OXMAN,
16 which would be an ethical violation if true. Shamaan testified that the OMIDIS, in the presence
17 of their attorney OXMAN, negotiated on how much of Shamaan's \$80,000 unpaid salary they
18 would pay him if Shamaan agreed to sign the false declaration. Plaintiffs are informed and believe
19 that Dr. Shamaan testified as follows on this point:

20 Q: "Did they offer to pay you money for you to lie?

21 A: Yes.

22 Q: And –

23 A: And that money is my salaries.

24 Q: And did they ever tell you that if you don't sign this and don't lie –

25 A: They won't give me the money.

26 Q: That's exactly what they told you?

27 A: Exactly.

28 Q: Who told you that?

1 A: The Omidis.

2 Q: Both Michael and Julian tell you that or one of the Omid brothers?

3 A: Both of them."

4 62. Plaintiffs are informed and believe, and thereon allege that Dr. Shamaan further
5 testified that when OXMAN had pulled him out of his deposition on November 2, 2011, OXMAN
6 told Shamaan, "The only way we can win this case is by you saying that the attorneys for the
7 *Faitro* case lied to you and talked to you even though they knew that you have been represented
8 by an attorney."

9 63. Plaintiffs are informed and believe, and thereon allege that the aforementioned
10 conduct by MICHAEL OMIDI, JULIAN OMIDI and BRIAN OXMAN violated California Penal
11 Code §§ 127, 132, and 118a.

12 64. Plaintiffs are further informed and believe, and thereon allege that at his December
13 20, 2011 deposition, Dr. Shamaan testified that patients at the OMIDIS' San Diego surgery center
14 are "cleared" for surgery by a third year medical resident, who signs off and clears patients for
15 surgery as though he was a licensed medical doctor. Plaintiffs are also informed and believe that
16 Dr. Shamaan admitted at this deposition that he participated in insurance fraud with JULIAN
17 OMIDI when he signed 600 form letters at one sitting at the request of JULIAN OMIDI on behalf
18 of patients that he had never seen or evaluated, giving false diagnosis of these patients to their
19 healthcare insurers for the purpose of inducing those insurance companies to approve payment of
20 Lap Band surgery.

21 **FIRST CAUSE OF ACTION**

22 **(By Plaintiffs DYANNE DEUEL and KARLA OSORIO for violations of**
23 **Health & Safety Code §1278.5 against all Defendants)**

24 65. Plaintiffs re-allege and incorporate by reference each of the allegations contained in
25 paragraphs 1 through 64 as though fully set forth herein.

26 66. Plaintiff DEUEL alleges that commencing in approximately March, 2011 she
27 complained to her supervisor, MARIA ABACA, RN, Bariatric Program Coordinator, about the
28 lack of necessary equipment at the surgery centers, including lack of Major Trays, no latex-free

1 kits, lack of supply of inventory, outdated medications, lack of emergency tracheotomy trays and
2 no bronchoscopes. DEUEL also complained to ABACA about the fact that every Lap Band
3 patient was getting an unnecessary liver biopsy. ABACA told DEUEL that the beauty of the
4 OMIDIS' owning their own surgery centers was that "we can do whatever we want."

5 67. Plaintiff DEUEL also complained to Tiffany Burrows, the nursing manager, about
6 the lack of emergency medications necessary to revive a patient in distress, such as vitamin K.

7 68. Plaintiff DEUEL is informed and believes, and thereon alleges that as a direct
8 result of her complaints to her supervisors, DEUEL was refused a promised three month
9 evaluation and raise, and instead was taken off of clinical duties and buried with administrative
10 paperwork (busy work) tasks and forced to work unpaid overtime.

11 69. Following the death of Paula Rojas, DEUEL wrote letters to the Los Angeles
12 County Coroner and Medical Board of California in October, 2011, informing them of the true
13 facts surrounding Ms. Rojas's death, the ensuing cover up by the OMIDIS and the ongoing threat
14 to patient safety as alleged herein. DEUEL has continued to cooperate with law enforcement's
15 investigation of Ms. Rojas's death.

16 70. On or about November 21, 2011, DEUEL requested to take unpaid family leave
17 between November 28, 2011 and January 9, 2012 to deal with a family emergency. DEUEL filled
18 out the necessary form requesting this temporary leave and presented it to the OMIDIS' Human
19 Resources department. DEUEL was then told confronted by BRIAN OXMAN, Esq. one of the
20 OMIDIS' lawyers. OXMAN accused DEUEL of leaking information to the Los Angeles Times
21 and governmental authorities. DEUEL was informed that her request for family leave was being
22 accepted as her "resignation" and she was terminated on the spot. DEUEL was then told that in
23 order to receive her two weeks' severance pay and unpaid wages, she had to sign a "release" which
24 included a promise not to disclose information about the OMIDIS' companies or she would be
25 liable to pay the OMIDIS \$25,000. When DEUEL asked if she could take a copy of this "release"
26 to a lawyer to review she was told she had to sign it on the spot. DEUEL refused to sign the
27 "release" and has not been paid her two week severance, or wages for approximately 90 hours of
28 overtime incurred before she was wrongfully terminated.

1 71. Plaintiff KARLA OSORIO also sent a letter to the California Medical Board and
2 other governmental agencies in December, 2011 about the unsanitary facilities and improper
3 practices at the OMIDIS' BEVERLY HILLS SURGERY CENTER. On our about the week of
4 December 19, 2011, OSORIO complained to her supervisor about another employee, who had
5 demanded that she use unsterile surgical instruments for a sterile procedure (not properly
6 autoclaved). In retaliation, OSORIO's written complaint about this employee was left in plain
7 view by her supervisors at the BEVERLY HILLS SURGERY CENTER for other employees to
8 read, creating a hostile work environment forcing her to take a leave of absence.

9 72. Health & Safety Code §1278.5 provides: "The Legislature finds and declares that it
10 is the public policy of the State of California to encourage patients, nurses, members of the
11 medical staff, and other health care workers to notify government entities of suspected unsafe
12 patient care and conditions." Subsection (b) prohibits an employer from retaliating, in any
13 manner, against an employee for making a complaint or report to any governmental agency,
14 accreditation entity or the medical staff of the facility, or cooperating in an investigation relating to
15 the care, services, or conditions at the facility. A violation of this section subjects the employer,
16 and owners of the health care facility, to a civil penalty of not more than \$25,000. Additionally,
17 any person who willfully violates this section is guilty of a misdemeanor. Further, subsection (g)
18 provides that any employee who has been discriminated against pursuant to this section shall be
19 entitled to reinstatement, reimbursement for lost wages and work benefits, attorney's fees and
20 costs, or to any remedy deemed warranted by the court.

21 73. Plaintiffs DEUEL and OSORIO have engaged in protected activities under Health
22 & Safety Code §1278.5 by reporting unsafe patient care and conditions to the Defendants, to the
23 Los Angeles County Coroner and to the Medical Board of California.

24 74. Plaintiffs DEUEL and OSORIO have been subjected to adverse employment
25 actions as a direct result of engaging in the aforementioned protected activities.

26 75. As a direct and proximate result of reporting unsafe patient care and conditions as
27 alleged herein, DYANNE DEUEL was wrongfully terminated and not paid her promised two
28 week severance and approximately 90 hours of unpaid overtime. As a direct and proximate result

1 of reporting unsafe patient care and conditions, KARLA OSORIO was harassed and forced to take
2 unpaid leave as a result of a hostile work environment created by the Defendants.

3 76. The amount of the Plaintiffs' damages are not yet completely known, but exceed
4 the minimum jurisdiction of this court and will be amended according to proof at the time of trial.

5 **SECOND CAUSE OF ACTION**

6 **(By Plaintiffs DYANNE DEUEL and KARLA OSORIO for violations of**
7 **Labor Code §1102.5 against all Defendants)**

8 77. Plaintiffs re-allege and incorporate by reference paragraph nos. 1 through 64 as
9 though fully set forth herein.

10 78. Labor Code §1102.5 prohibits an employer from retaliating against an employee
11 for disclosing information to a government or law enforcement agency, where the employee has
12 reasonable cause to believe that the information discloses a violation of state or federal statute, or
13 a violation or non-compliance with a state or federal rule or regulation.

14 79. Plaintiffs have engaged in protected activities under Labor Code §1102.5 by
15 reporting unsafe patient care and conditions about the Defendants to the Los Angeles County
16 Coroner and to the Medical Board of California.

17 80. Plaintiffs have been subjected to adverse employment actions as a direct result of
18 engaging in the aforementioned protected activities.

19 81. As a direct and proximate result of reporting unsafe patient care and conditions as
20 alleged herein, DYANNE DEUEL was wrongfully terminated and not paid her promised two
21 week severance and approximately 90 hours of unpaid overtime. As a direct and proximate result
22 of reporting unsafe patient care and conditions, KARLA OSORIO was harassed and forced to take
23 unpaid leave as a result of a hostile work environment created by the Defendants. The amount of
24 the Plaintiffs' damages are not yet completely known, but exceed the minimum jurisdiction of this
25 court and will be amended at the time of trial according to proof.

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THIRD CAUSE OF ACTION

(By Plaintiffs KIM TIRRE, SAMANTHA FINKS, ELISABETH JOHNSON, JAMES THACKER, NANCY L. MUNOZ, TUQUISHA WILLIAMS, DARLENE FLORIANO, JACQUELYNN BECERRA, DAVID STADE, GEORGIANA PACHECO and CASSIE GIBBONS for violations of RICO [18 U.S.C.A. §1962] against all Defendants)

82. Plaintiffs re-allege and incorporate by reference paragraph nos. 1 through 64 as though fully set forth herein.

83. Plaintiffs are informed and believe, and thereon allege, that Defendants JULIAN OMIDI, MICHAEL OMIDI, CINDY OMIDI are "persons" as defined by 18 U.S.C.A. §1961(3), who hold a legal or beneficial interest in 1 800 GET THIN, LLC, TOP SURGEONS, LLC, VALLEY SURGICAL CENTER, LLC., BEVERLY HILLS SURGERY CENTER, LLC, ALMONT AMBULATORY SURGERY CENTER, INC., ANTELOPE VALLEY SURGICAL CENTER, LLC., CALIFORNIA HOSPITAL MANAGEMENT & COLLECTIONS, INC., LAP BAND SPECIALISTS, LLC., SKIN CANCER AND RECONSTRUCTIVE SURGERY SPECIALISTS OF BEVERLY HILLS, SKIN CANCER AND RECONSTRUCTIVE SURGERY SPECIALISTS OF VALENCIA, SURGERY CENTER MANAGEMENT, LLC; NEW LIFE SURGERY CENTER, LLC., DE VIDA USA, INC., and PATIENT ADVOCACY LAW GROUP (PALG).

84. Plaintiffs are informed and believe, and thereon allege that Defendants, 1 800 GET THIN, LLC, TOP SURGEONS, LLC, NEW LIFE SURGERY CENTER, LLC, DE VIDA USA, LLC, BEVERLY HILLS SURGERY CENTER, LL., VALLEY SURGICAL CENTER, LLC., NEW LIFE SURGERY CENTER, LLC., ALMONT AMBULATORY SURGERY CENTER, INC., ANTELOPE VALLEY SURGICAL CENTER, LLC., CALIFORNIA HOSPITAL MANAGEMENT & COLLECTIONS, INC., LAP BAND SPECIALISTS, LLC., SKIN CANCER AND RECONSTRUCTIVE SURGERY SPECIALISTS OF BEVERLY HILLS, SKIN CANCER AND RECONSTRUCTIVE SURGERY SPECIALISTS OF VALENCIA, SURGERY CENTER MANAGEMENT, LLC., PATIENT ADVOCACY LAW GROUP (PALG), THOMAS CLOUD,

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1 ROBERTO MACATANGAY, MARIA ABACA, BRIAN OXMAN, ESQ. and ROBERT
2 SILVERMAN, ESQ., constitute an "enterprise" as defined by 18 U.S.C.A. §1961(4).

3 85. Plaintiffs are informed and believe, and thereon allege that Defendants, JULIAN
4 OMIDI, MICHAEL OMIDI, CINDY OMIDI and ROBERT SILVERMAN have engaged in the
5 following predicate acts, which constitute "racketeering activity" under 18 U.S.C.A. §1961(1):

6 a. Health care fraud in violation of 18 U.S.C.A. §1347 by knowingly and
7 willfully executing, and attempting to execute a scheme to defraud the Plaintiffs and their health
8 care insurers by engaging in "upcoding", performing medically unnecessary procedures, such as
9 liver biopsies, hiatal hernia repairs, hysterectomies, gall bladder removals, and bladder slings;

10 b. Mail fraud in violation of 18 U.S.C.A. §1341 by devising and intending to
11 devise a scheme to defraud the Plaintiffs and their health care insurers by means of false or
12 fraudulent pretenses, representations or promises through the use of the U.S. Mail, including but
13 not limited to mailing fraudulent bills to the Plaintiffs and to their health care insurers and
14 receiving payment for fraudulent bills from Plaintiffs and their health care insurers through the
15 U.S. Mail;

16 c. Wire fraud in violation of 18 U.S.C.A. §1343 by devising and intending to
17 devise a scheme or artifice to defraud the Plaintiffs and their health care insurers and obtain
18 payment from Plaintiffs and their health care insurers through the use of deceptive and misleading
19 wire, radio or television advertisements in interstate commerce for the purpose of executing their
20 scheme or artifice.

21 86. Plaintiffs are informed and believe, and thereon allege that Defendants JULIAN
22 OMIDI, MICHAEL OMIDI, and BRIAN OXMAN, ESQ. have engaged in the following predicate
23 acts, which constitute "racketeering activity" under 18 U.S.C.A. §1961(1):

24 a. Tampering with a witness, victim or informant in violation of 18 U.S.C.A.
25 §1512(b)(d) by intimidating, threatening, corruptly persuading, or attempting to persuade Dr.
26 Shamaan from giving sworn testimony under oath about the Defendants' violations of law at his
27 deposition in Faitro v. Shamaan, et al., LASC Case No. SC111332 on November 2, 2011 and
28 December 20, 2012;

1 b. Retaliating against a witness, victim or an informant in violation of 18
2 U.S.C.A. §1513(b) by knowingly engaging in conduct which caused monetary damage to
3 whistleblowers Dyanne Deuel and Karla Osorio with the intent to retaliate against them for
4 providing information relating to the commission, or possible commission of a Federal offense to
5 law enforcement;

6 c. Bribery of a witness in violation of 18 U.S.C.A. §201(b)(3) by directly or
7 indirectly, corruptly offering or promising to pay money to Dr. Shamaan with the intent to
8 influence his deposition testimony under oath in Faitro v. Shamaan, et al., LASC Case No.
9 SC111332 on November 2, 2011 and December 20, 2012.

10 87. Plaintiffs are informed and believe, and thereon allege, that Defendants THOMAS
11 CLOUD, ROBERTO MACANTANGAY, MARIA ABACA, ROBERT SILVERMAN and
12 BRIAN OXMAN have violated 18 U.S.C.A. §1962(c) and (d) by participating, directly or
13 indirectly, in the conduct of the OMIDIS' criminal enterprise and affairs through a pattern of
14 racketeering activity and by conspiring to violate the provisions of subsections (a), (b) and/or (c)
15 of §1962.

16 88. Plaintiffs are informed and believe, and thereon allege that they relied upon the
17 truthfulness of the Defendants' bills for Lap Band and associated surgical procedures and trusted
18 that the Defendants, as medical doctors and health care professionals, upheld their fiduciary duties
19 to the Plaintiffs by putting the interest of their patients first before the Defendants' greed and
20 avarice. Plaintiffs were entitled to rely upon the representations made by the Defendants in their
21 bills for surgical procedures based upon the patient-physician relationship and trusted that the
22 Defendants would not defraud them or their health care insurers.

23 89. As a direct and proximate result of the aforementioned predicate acts by the
24 Defendants, and each of them, Plaintiffs have been injured in their business and property by
25 reason of the violations of 18 U.S.C.A. §1962, including but not limited to, payment of out-of-
26 pocket expenses to the Defendants, exhaustion of health care insurance policy deductibles,
27 responsibility for non-covered expenses refused or rejected by their health care insurers,

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1 and the cost for additional surgeries and medical expenses paid to correct or repair medically-
2 unnecessary surgical procedures performed by the OMIDIS and their agents.

3 90. Pursuant to 18 U.S.C.A. §1964(c), Plaintiffs are entitled to recover from the
4 Defendants, and each of them, treble damages, costs of suit, reasonable attorney's fees, and
5 injunctive relief to restrain violations of §1962 by requesting the court to issue orders that the
6 Defendants divest themselves of any interest, direct or indirect, in their criminal enterprise,
7 imposing reasonable restrictions on future activities or investments, and an order prohibiting the
8 Defendants from engaging in the same type of endeavor as the criminal enterprise, and ordering
9 the dissolution of their criminal enterprise, making due provision for the rights of innocent
10 persons.

11 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
12 follows:

13 FOR THE FIRST AND SECOND CAUSES OF ACTION:

- 14 1. General and specific damages in an amount according to proof;
- 15 2. Attorney's fees and costs; and
- 16 3. Such other relief as the Court may deem just and proper.

17 FOR THE THIRD CAUSE OF ACTION:

- 18 1. General damages in an amount according to proof;
- 19 2. Three times (treble) damages pursuant to 18 U.S.C.A. §1964(c);
- 20 3. Reasonable attorney's fees and costs of suit per §1964(c);
- 21 4. Injunctive relief in the form of an order that the Defendants divest themselves of
22 any interest, direct or indirect, in their criminal enterprise, imposing reasonable restrictions on
23 future activities or investments, and an order prohibiting the Defendants from engaging in the
24 same type of endeavor as the criminal enterprise, and ordering the dissolution of their criminal
25 enterprise, making due provision for the rights of innocent persons; and

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1 5. Such other and further orders that this Court may deem just and proper.

2 DATED: January 17, 2012

ROBERTSON & ASSOCIATES, LLP

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By: 
ALEXANDER ROBERTSON, IV
Attorneys for Plaintiffs

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EXHIBIT "A"

COVERED BY MOST PPO HEALTH INSURANCE

LOST
102 lbs



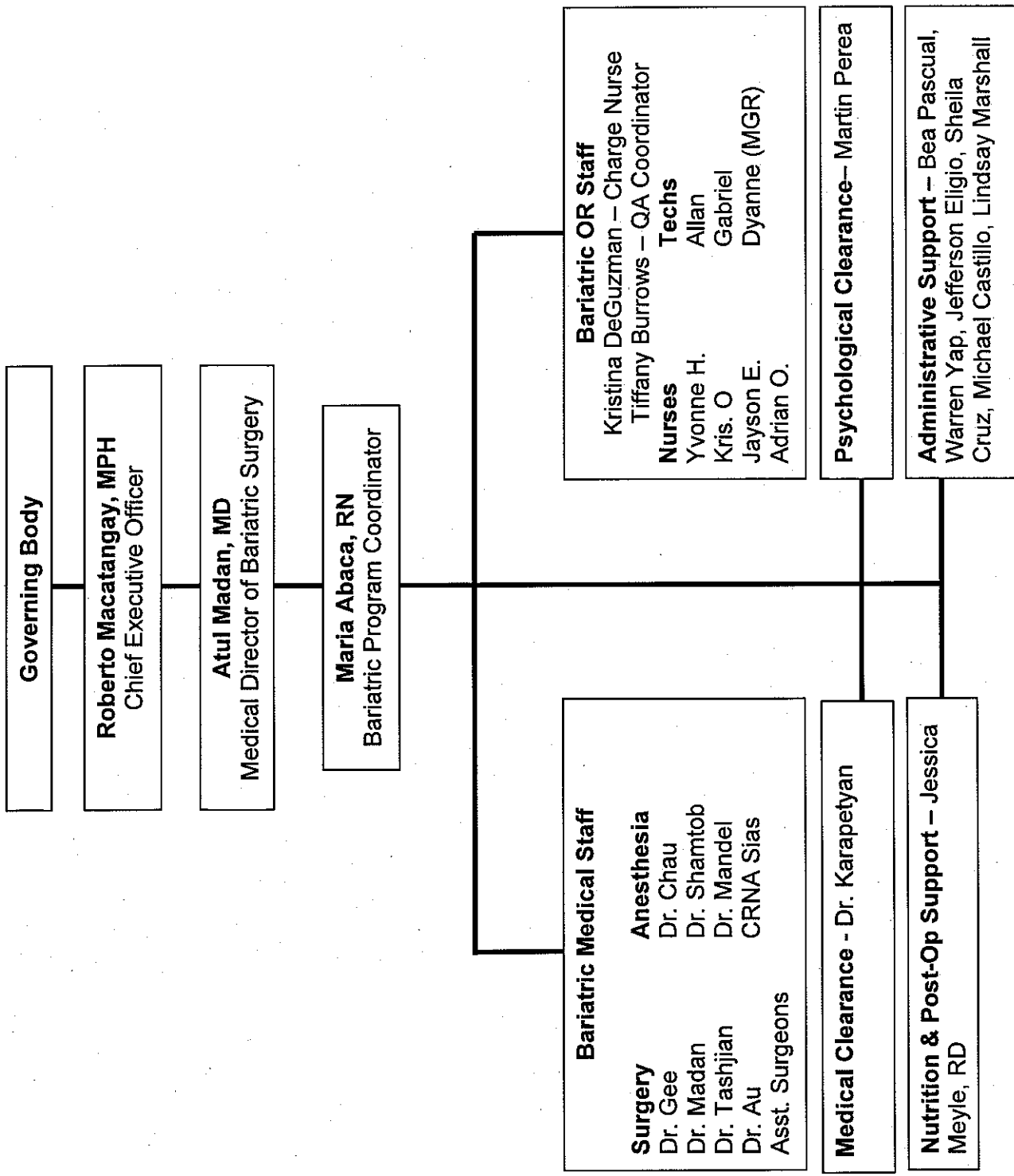
1-800-GET-THIN
(1-800-953-5000)

Windows taskbar icons: Start, Internet Explorer, Firefox, VLC, Office, Word, System tray (Volume, Network, Date/Time: 1:22 PM 1/11/2012)



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EXHIBIT “B”



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EXHIBIT “C”

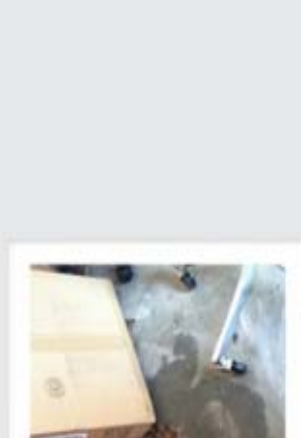
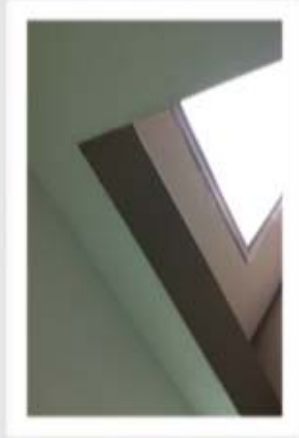




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EXHIBIT “D”

Biohazard room in BH location.



Pictures Taken 11/8/11



Pictures Taken 11/8/11



Pictures Taken 11/8/11



Pictures Taken 11/8/11



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EXHIBIT "E"

Call Center Scripts

1. (Greeting Stage)

Thank you for calling Lap Band Centers this is _____ how may I help you?

Patient – Interested in lap Band

Great and what is your first name?

Example: Steve

Thank you, Steve are you familiar with the Lap Band Procedure or would you like me to give you brief details.

(If already familiar ask the patient if she has medical coverage)

2. (Informative Stage-About the Lap Band)

- The Lap band was created to eliminate cravings and curb your appetite by restricting your stomach and your ability to over eat.
- Essentially you eat less and feel completely satisfied.
- It is FDA approved.
- It takes about an hour and it's an outpatient procedure.
- The down time is minimal. People return to work or light activity in a few days.
- Unlike the Gastric Bypass the lap band is 10X safer with no stomach cutting or stapling involved.
- The Lap Band is adjustable which means your band can be loosened or tightened and custom tailored to your weight loss goals.
- Most importantly the Lap Band can be completely removed if necessary.

3. “Build Rapport”

(Steve) How much weight are you trying to lose?

Customer: 100 pounds

(Give a quick success story to excite the caller while getting other info.)

Good for you! My friend Paulina in the office lost 120lbs with The Lap Band. You should see her now! She looks great!

How much do you currently weigh and how tall are you?

Customer: 5’5 300lbs

(After calculating BMI and determining it is over 30)

It looks like your BMI qualifies you as a candidate for The Lap Band.

4. (Inquiry Stage)

(Steve) I do have a question for you are you currently medically Insured?

Patient – yes

What type of plan (HMO/PPO)???

Great!! PPO Insurance plans open up the doors for most medical procedures including the Lap Band. Here at “Lap Band Centers” We will verify your insurance coverage to determine whether or not you have the key Bariatric benefit (lap Band Coverage) on your plan. If you do that would be great news!

We can then schedule a free orientation in a medical office nearest to you to go over the complete details of your insurance plan and explain to you exactly what your insurance company will require of you as a potential candidate to make the Lap Band a reality.

This will emphasize the importance of the seminar without giving too much detail and still allow to engage the patient about how exciting it is to have the key benefit in place on plan.

(Name) Would you like to have your Insurance verified to see if you have the established benefit on your plan?? If yes- ***Jump to Data Retrieval Stage***

5. If they push with specific Lap band questions say:

I'm not a doctor but,,, *Give a very quick answer if you 100% know the answer.*

Then say:

You know that is a really good question. I tell everyone that they should grab a piece of paper and pen and begin to write your questions down so you can ask the experts at the free orientation.

If they continue for medical or detailed information say:

I really don't want to give you any wrong information because I know this is a big decision. Again, I'm not a medical professional and want to make sure all of your questions are addressed and answered correctly when you meet your doctor at the free orientation.

TAKE CONTROL OF THE CALL and CONTINUE TO GATHER DATA

BEGIN DETAILED Personal/Insurance/Employer Data Gathering

6. (If a patient states No Insurance)